

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 7. Mediation Questionnaire

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9th Cir. Case Number(s) 22-15162

Case Name David Lowery et. al. v. Rhapsody International Inc.

Counsel submitting this form William Adams, Quinn Emanuel Urquhart & Sullivan LLP

Represented party/ parties Rhapsody International Inc.

Briefly describe the dispute that gave rise to this lawsuit.

Rhapsody is a music streaming service. Plaintiffs sought royalties for certain copyright holders in a class action, under an outdated and now-defunct statutory provision, with which streaming services could not comply. Rhapsody already had paid copyright holders on the exact same claim under an industry-wide settlement. Rhapsody repeatedly advised Plaintiffs of the prior settlement and the resulting fact that their class would be insignificant. Nevertheless, Plaintiffs told the Court the case was valued at hundreds of millions of dollars, reneged on a settlement when Rhapsody refused to pay them over \$5 million in fees after just over one year of mostly-stayed litigation, and then took repeated actions to prolong the litigation, presumably to build their lodestar. The class ended up making claims of just over \$52,000, just as Rhapsody had predicted and advised all along.

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Briefly describe the result below and the main issues on appeal.

This is a class action with a claims-made settlement that did not include a common fund, in which the class recovered approximately \$52,000. The only remaining issue is attorney fees. Plaintiffs' lawyers sought over \$6 million in fees. Defendant believes the fee award is limited by what the class received. The District Judge referred the matter to the Magistrate for a report and recommendation. The Magistrate recommended approximately \$860,000 in fees. Both sides appealed to the District Judge, who eliminated the Magistrate's application of a negative multiplier, thus raising the fee award to \$1.7 million. Rhapsody is appealing this award.

Describe any proceedings remaining below or any related proceedings in other tribunals.

None

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)